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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/648,712

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Chris Zegelin

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10/27/2006

BAKER & BOTTS

30 ROCKEFELLER PLAZA

44TH FLOOR

NEW YORK, NY 10112-4498

EXAMINER

DANIEL JR, WILLIE J

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,712

Applicant(s)

ZEGELIN, CHRIS

Examiner

Willie J. Daniel, Jr.

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 11-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's communication filed on 02 May 2006. **Claims 1-10** are now pending in the present application and **claims 11-16** are non-elected. This office action is made **Non-Final**.

Election/Restrictions

2. Applicant's election without traverse of claims 1-10 in the reply filed on 02 May 2006 is acknowledged.

Drawings

3. The drawings are objected to because the description refers to Figure 6 on pg. 5, [0018] and on pg. 7, [0023]. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR

1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. This list of examples is not intended to be exhaustive.

Claim Objections

5. **Claims 1-5** are objected to because of the following informalities:

- a. Claims 1-5 recites the limitation "...a system..." as in line(s) 1 of claim 1 and "...improvement..." as in line(s) 1 of claim 2. In current form, the language of the claims is not clear as to whether the claims are directed to a method/process or system/apparatus. The Examiner request applicant to clarify the claim language as supported by the specification.

Appropriate correction is required.

6. This list of examples is not intended to be exhaustive. The Examiner respectfully requests the applicant to review all claims and clarify the issues as listed above as well as any other issue(s) that are not listed.

Specification

7. The disclosure is objected to because of the following informalities:
- a. Description recites "...computer **servr**..." on pg. 7, [0023]. The Examiner interprets as "...computer server...".
- Appropriate correction is required.
8. This list of examples is not intended to be exhaustive.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by **Bahl et al.**

(hereinafter Bahl) (**US 6,799,047 B1**).

Regarding **claim 1**, Bahl discloses in a system wherein a mobile computer (20, 80) which reads on the claimed "portable device", arranged for wireless data communications with a computer (84), is located using radio signals between said portable device (20) and base stations () which reads on the claimed "fixed devices" (see col. 4, lines 51-57; col. 5, lines 28-37; col. 13, lines 24-28; Figs. 1-4 and 6), and

wherein said computer (84) uses a database relating radio signal characteristics to location to compute location of said device (see col. 9, lines 34-47; col. 12, lines 42-46; Figs. 1-4 and 6), and

communicates location data to said portable device (20, 80) using wireless data communications, the improvement wherein said computer (84) communicates characteristic data representing radio signal environment in a sub-area (e.g., office 92) corresponding to said location data to said portable device (20, 80) (see col. 5, lines 28-37; col. 12, lines 46-51; Figs. 1-4 and 6), and

wherein said portable device (20, 80) monitors received radio signals corresponding to said data representing radio signal environment to detect a change in location of said device (20, 80) (see col. 5, lines 42-54; Figs. 1-4 and 6).

Regarding **claim 2**, Bahl discloses the improvement specified in claim 1 wherein said portable device (20, 80) uses said characteristic data and said radio signals corresponding to said radio signal environment to update said location data (see col. 5, lines 42-54; Figs. 1-4 and 6).

Regarding **claim 3**, Bahl discloses the improvement specified in claim 2 wherein said device (20, 80) is arranged to transmit said location data to a computer in association with other data and wherein said device (20, 80) transmits said updated location data in association with said other data (see col. 5, lines 42-54; col. 9, lines 34-47; col. 12, lines 42-46; Figs. 1-4 and 6).

Regarding **claim 4**, Bahl discloses the improvement specified in claim 1 wherein said portable device (20, 80) signals said computer (84) to provide updated location data if said device (20, 80) determines that it has changed location (see Figs. 1-4 and 6).

Regarding **claim 5**, Bahl discloses the improvement specified in claim 1 wherein said portable device (20, 80) signals said computer (84) to provide an increased rate of updated location data if said device (20, 80) determines that it has moved (see Figs. 1-4 and 6).

Regarding **claim 6**, Bahl discloses a portable device (20, 80) arranged to communicate with a computer (84) using wireless data communications (see col. 4, lines 51-57; col. 5, lines 28-37; col. 13, lines 24-28; Figs. 1-4 and 6), comprising:

at least one wireless network interface (53) which reads on the claimed “radio receiver” for receiving signals including data communications (see col. 4, lines 14-20; Figs. 1-4 and 6); and

a processing unit (21) which reads on the claimed “processor” arranged to receive from said radio and store location data and characteristic data representing radio signal environment in a sub-area (e.g., office 92) corresponding to said location data (see col. 3, lines 12-32; col. 5, lines 28-37; Figs. 1-4 and 6),

said processor (21) being arranged to cause said receiver to monitor signals corresponding to said radio signal environment and to provide said processor (21) with radio signal data corresponding to said radio signal environment (see col. 5, lines 28-37; col. 12, lines 46-51; Figs. 1-4 and 6), and

said processor (21) being further arranged to use said radio signal data and said characteristic data representing radio signal environment in a sub-area (e.g., office 92)

corresponding to said location data to determine if said device has changed location (see col. 5, lines 42-54; Figs. 1-4 and 6).

Regarding **claim 7**, Bahl discloses a portable device as specified in claim 6 wherein said processor (21) is further arranged to use said radio signal data and said characteristic data representing radio signal environment in a sub-area (e.g., office 92) corresponding to said location data to update said location data (see col. 5, lines 42-54; Figs. 1-4 and 6).

Regarding **claim 8**, Bahl discloses a portable device (20, 80) as specified in claim 7 wherein said device is arranged to transmit said location data to a computer (84) in association with other data (see col. 5, lines 42-54; col. 9, lines 34-47; col. 12, lines 42-46; Figs. 1-4 and 6).

Regarding **claim 9**, Bahl discloses a portable device (20, 80) as specified in claim 6 wherein said portable device (20, 80) further includes a transmitter and wherein said processor (21) is arranged to cause said transmitter to send a data message to said computer (84) to cause said computer (84) to update said location data if said device has changed location (see Figs. 1-4 and 6).

Regarding **claim 10**, Bahl discloses a portable device (20, 80) as specified in claim 6 wherein said portable device (20, 80) further includes a transmitter (53) and wherein said processor (21) is arranged to cause said transmitter to send a data message to said computer (84) to cause said computer (84) to provide an increased rate of location data if said device (20, 80) has changed location (see Figs. 1-4 and 6).

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (571) 272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WJD,JR/

WJD,JR
25 October 2006


ERIKA A. GARY
PRIMARY EXAMINER